



Reprinted
February 5, 2004

HOUSE BILL No. 1072

DIGEST OF HB 1072 (Updated February 4, 2004 3:16 pm - DI 105)

Citations Affected: IC 22-12; IC 35-47.5; noncode.

Synopsis: Regulated explosives. Provides that a person may not use a regulated explosive (other than commercially manufactured black powder or consumer fireworks) unless the person has been issued a license by the state fire marshal. Provides that the fire prevention and building safety commission shall adopt rules to govern the use of regulated explosives. Makes it a crime to violate those rules. Exempts entities that engage in surface coal mining operations from the regulated explosive license requirement.

Effective: July 1, 2004.

Bischoff, Friend, Yount, Hasler

January 15, 2004, read first time and referred to Committee on Interstate and International Cooperation.

January 29, 2004, amended, reported — Do Pass.

February 4, 2004, read second time, amended, ordered engrossed.

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HB 1072—LS 6516/DI 105+



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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1072

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-12-7-7, AS AMENDED BY P.L.141-2003,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 7. An order under IC 4-21.5-3-6 or IC 4-21.5-4
4 may include the following, singly or in combination:

5 (1) Require a person who has taken a substantial step toward
6 violating a law or has violated a law to cease and correct the
7 violation.

8 (2) Require a person who has control over property that is
9 affected by a violation to take reasonable steps to:

10 (A) protect persons and property from the hazards of the
11 violation; and

12 (B) correct the violation.

13 (3) Require persons to leave an area that is affected by a violation
14 and prohibit persons from entering the area until the violation is
15 corrected.

16 (4) Impose any of the following sanctions with respect to a permit,
17 registration, certification, release, authorization, variance,

HB 1072—LS 6516/DI 105+



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1 exemption, or other license issued by a person described in
2 section 1 of this chapter:

- 3 (A) Permanently revoke the license.
- 4 (B) Suspend the license.
- 5 (C) Censure the person to whom the license is issued.
- 6 (D) Issue a letter of reprimand to a person to whom the license
7 is issued.
- 8 (E) Place a person to whom the license is issued on probation.

9 **An order to permanently revoke or suspend a license under**
10 **this subdivision may include the revocation or suspension of**
11 **a license issued under IC 35-47.5-4-4.5 for the commission of**
12 **an offense under IC 35-47.5-5 or 18 U.S.C. 842 by the licensee.**

- 13 (5) Impose on a person who has violated a law that may be
14 enforced by the department a civil penalty not to exceed two
15 hundred fifty dollars (\$250) for each day the violation occurs.

16 SECTION 2. IC 35-47.5-4-4.5 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) This section does not**
19 **apply to a person who is regulated under IC 14-34.**

20 **(b) The commission shall adopt rules under IC 4-22-2 to:**

- 21 **(1) govern the use of a regulated explosive; and**
- 22 **(2) establish requirements for the issuance of a license for the**
23 **use of a regulated explosive.**

24 **(c) The commission shall include the following requirements in**
25 **the rules adopted under subsection (b):**

- 26 **(1) Relicensure every three (3) years after the initial issuance**
27 **of a license.**
- 28 **(2) Continuing education as a condition of relicensure.**
- 29 **(3) An application for licensure or relicensure must be**
30 **submitted to the office on forms approved by the commission.**
- 31 **(4) A fee for licensure and relicensure.**
- 32 **(5) Reciprocal recognition of a license for the use of a**
33 **regulated explosive issued by another state if the licensure**
34 **requirements of the other state are substantially similar to the**
35 **licensure requirements established by the commission.**

36 **(d) A person may not use a regulated explosive, unless the**
37 **person has a license issued under this section for the use of a**
38 **regulated explosive.**

39 **(e) The office shall carry out the licensing and relicensing**
40 **program under the rules adopted by the commission.**

41 **(f) As used in this section, "regulated explosive" does not**
42 **include either of the following:**

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1 (1) Consumer fireworks (as defined in 27 CFR 55.11).

2 (2) Commercially manufactured black powder in quantities
3 not to exceed fifty (50) pounds, if the black powder is intended
4 to be used solely for sporting, recreational, or cultural
5 purposes in antique firearms or antique devices.

6 SECTION 3. IC 35-47.5-5-11 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2004]: **Sec. 11. A person who recklessly**
9 **violates a rule regarding the use of a regulated explosive adopted**
10 **by the commission under IC 35-47.5-4-4.5 commits a Class A**
11 **misdemeanor. However, the offense is a Class D felony if the**
12 **violation of the rule proximately causes bodily injury or death.**

13 SECTION 4. [EFFECTIVE JULY 1, 2004] IC 35-47.5-5-11, as
14 added by this act, applies only to offenses committed after June 30,
15 2004.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1072, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 20, delete "explosive;" and insert "**explosive other than black powder or common fireworks;**".

Page 2, line 22, delete "explosive." and insert "**explosive other than black powder or common fireworks.**".

Page 2, line 35, delete "explosive" and insert "**explosive, other than black powder or common fireworks,**".

and when so amended that said bill do pass.

(Reference is to HB 1072 as introduced.)

DENBO, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1072 be amended to read as follows:

Page 2, line 20, delete "explosive other than black" and insert **"explosive;"**.

Page 2, line 21, delete "powder or common fireworks;"

Page 2, line 23, delete "other than black powder or" and insert ".".

Page 2, delete line 24.

Page 2, line 37, delete ", other than black".

Page 2, line 38, delete "powder or common fireworks,".

Page 2, between lines 41 and 42, begin a new paragraph and insert:
"(e) As used in this section, "regulated explosive" does not include either of the following:

(1) Consumer fireworks (as defined in 27 CFR 55.11).

(2) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices."

(Reference is to HB 1072 as printed January 30, 2004.)

BISCHOFF

HOUSE MOTION

Mr. Speaker: I move that House Bill 1072 be amended to read as follows:

Page 2, line 18, after "(a)" insert **"This section does not apply to a person who is regulated under IC 14-34.**

(b)".

Page 2, line 25, delete "(b)" and insert **"(c)"**.

Page 2, line 26, delete "(a):" and insert **"(b):"**.

Page 2, line 37, delete "(c)" and insert **"(d)"**.

Page 2, line 40, delete "(d)" and insert **"(e)"**.

(Reference is to HB 1072 as printed January 30, 2004.)

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